

EDMUND G. BROWN JR., Attorney General  
of the State of California  
PAUL C. AMENT, State Bar No. 60427  
Supervising Deputy Attorney General  
RICHARD D. MARINO, State Bar No. 90471  
Deputy Attorney General  
California Department of Justice  
300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
Telephone: (213) 897-8644  
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation and Petition to  
Revoke Probation Against:

GEORGE A. NAVARRO  
554 E. 5<sup>th</sup> Street  
Ontario, California 91764

Respiratory Care Practitioner License No. 24834

Respondent.

Case No. R-2080

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

Complainant alleges:

**PARTIES**

1. Stephanie Nunez (Complainant) brings this Accusation and Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California (Board), Department of Consumer Affairs.

2. On or about December 21, 2005, the Board issued Respiratory Care Practitioner License No. 24834 to George A. Navarro (Respondent). This license was in effect at all times relevant to the charges brought herein and will expire on April 30, 2009, unless renewed.

3. In a disciplinary action brought by the Board against Respondent, entitled *In the Matter of the Statement of Issues Against George A. Navarro*, Case No. S-349, the Board

1 issued a decision, effective December 21, 2005, in which Respondent was issued a probationary  
2 license for a period of three years with certain terms and conditions. A copy of that decision is  
3 attached as Exhibit A and is incorporated herein by reference.

#### 4 JURISDICTION

5 4. This Accusation and Petition to Revoke Probation is brought before the  
6 Board under the authority of the following laws. All section references are to the Business and  
7 Professions Code (Code) unless otherwise indicated.

8 5. Section 3710 of the Code states: "The Respiratory Care Board of  
9 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter  
10 8.3, the Respiratory Care Practice Act]."

11 6. Section 3718 of the Code states: "The board shall issue, deny, suspend,  
12 and revoke licenses to practice respiratory care as provided in this chapter."

13 7. Section 3754 of the Code states: "The board may deny an application for,  
14 or issue with terms and conditions, or suspend or revoke, or impose probationary conditions  
15 upon, a license in any decision made after a hearing, as provided in Section 3753."

16 8. Section 3750 of the Code states:

17 "The board may order the suspension or revocation of, or the  
18 imposition of probationary conditions upon, a license issued under this chapter,  
19 for any of the following causes:

20 "..."

21 "(g) Conviction of a violation of any of the provisions of this  
22 chapter or of any provision of Division 2 (commencing with Section 500), or  
23 violating, or attempting to violate, directly or indirectly, or assisting in or abetting  
24 the violation of, or conspiring to violate any provision or term of this chapter or of  
25 any provision of Division 2 (commencing with Section 500).

26 "..."

27 9. Section 3750.5 of the Code states:

28 "In addition to any other grounds specified in this chapter, the

board may deny, suspend, or revoke the license of any applicant or license holder who has done any of the following:

“ . . . .”

#### **COST RECOVERY**

10. Section 3753.5, subdivision (a) of the Code states:

“In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case.”

11. Section 3753.7 of the Code states:

“For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees.”

12. Section 3753.1, subdivision (a) of the Code states:

“An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation.”

#### **FIRST CAUSE TO REVOKE PROBATION**

##### **(Work Schedules)**

13. At all times after the effective date of Respondent’s probation, Term and Condition 1 stated:

“Respondent shall be required to submit to the probation monitor work schedules on a weekly/monthly basis for the length of probation. Respondent shall ensure the Board has a copy of his current work schedule at all times for each place of employment.”

**“Failure to submit current work schedules on a continuous basis shall constitute a violation of probation, and shall result in the filing of**

1       **an accusation and/or a petition to revoke probation against Respondent’s**  
2       **respiratory care practitioner license.”** (Emphasis added.)

3               14.     Respondent’s probation is subject to revocation because he failed to  
4     comply with Probation Term and Condition No. 1, referenced above, as follows:

5                       A.     Respondent failed to provide any work schedules while on  
6     probation.

7                       **SECOND CAUSE TO REVOKE PROBATION**

8                       **(Abstain from Use of Drugs and Alcohol)**

9               15.     At all times after the effective date of Respondent’s probation, Term and  
10    Condition No. 3 stated:

11                      “Respondent shall completely abstain from the possession or use of  
12     alcohol, controlled substances, dangerous drugs, and any and all other mood altering  
13     drugs, substances and their associated paraphernalia, except when the drugs are lawfully  
14     prescribed by a licensed practitioner as part of a documented medical treatment.”

15                      “Respondent shall execute a release authorizing the release of pharmacy  
16     and prescribing records as well as physical and mental health records. Respondent shall  
17     also provide information of treating physicians, counselors or any other treating  
18     professionals as requested by the Board.”

19                      “Respondent shall ensure that he is not in the presence of or in the same  
20     physical location as individuals who are using illegal substances, even if Respondent is  
21     not personally ingesting the drug(s).”

22                      **“Any positive result that registers over the established laboratory**  
23     **cutoff level shall constitute a violation of probation and shall result in the filing of**  
24     **an accusation and/or a petition to revoke probation against Respondent’s**  
25     **respiratory care practitioner license.”**

26                      “Respondent also understands and agrees that any positive result that  
27     registers over the established laboratory cutoff level shall be reported to each of  
28     Respondent’s employers.” (Emphasis added.)

1                   16.     Respondent's probation is subject to revocation because he failed to  
2 comply with Probation Term and Condition No. 3, referenced above, as follows:

3                   A.     On January 24, 2007, Respondent appeared at a collection  
4 site to provide a urine specimen for testing and analysis in accordance with his  
5 probation monitoring program. The laboratory report from Compass Vision Inc.  
6 indicated he tested positive for Ethyl Glucuronide at 13000 nanograms/milligrams  
7 and for Ethanol at .048 grams/deciliter.

8                   B.     On February 2, 2007, Respondent provided a urine  
9 specimen for testing and analysis. The laboratory report indicated he tested  
10 positive for Ethyl Glucuronide at 71000 nanograms/milligrams and for Ethanol at  
11 .048 grams/deciliter.

12                  C.     On February 15, 2007, Respondent provided a urine  
13 specimen for testing and analysis. The laboratory report indicated he tested  
14 positive for Ethyl Glucuronide at 13000 nanograms/milligrams and for Ethanol at  
15 .032 grams/deciliter.

16                  D.     On March 10, 2007, Respondent provided a urine specimen  
17 for testing and analysis. The laboratory report indicated he tested positive for  
18 Ethyl Glucuronide at 6900 nanograms/milligrams and for Ethanol at .088  
19 grams/deciliter.

20                                   **THIRD CAUSE TO REVOKE PROBATION**

21   **(Restriction of Practice)**

22                   17.     At all times after the effective date of Respondent's probation, Term and  
23 Condition No. 4 stated:

24                                   "Respondent may not be employed or function as a member of a  
25 respiratory care management or supervisory staff during the entire length of probation.  
26 This includes lead functions."

27                                   "Respondent is prohibited from working in home care unless it is under  
28 direct supervision and personal observation.

1                   18.     Respondent's probation is subject to revocation because he failed to  
2     comply with Probation Condition 4 referenced above, as follows:

3                   A.     In or about April 2006, Respondent was hired as a  
4     Respiratory Therapist Manager of the French Park Care Center.

5                   **FOURTH CAUSE TO REVOKE PROBATION**

6                   **(Quarterly Reports)**

7                   19.     At all times after the effective date of Respondent's probation, Term and  
8     Condition No. 6 stated:

9                   "Respondent shall file quarterly reports of compliance under  
10     penalty of perjury, on forms to be provided to the probation monitor assigned by  
11     the Board. Omission or falsification in any manner of any information on these  
12     reports shall constitute a violation of probation and shall result in the filing of an  
13     accusation and/or a petition to revoke probation against Respondent's respiratory  
14     care practitioner license."

15                  "Quarterly report forms will be provided by the Board.  
16     Respondent is responsible for contacting the Board to obtain additional forms if  
17     needed. Quarterly reports are due for each year of probation and the entire length  
18     of probation as follows:

19                  "For the period covering January 1<sup>st</sup> through March 31<sup>st</sup>, reports are  
20     to be completed and submitted between April 1<sup>st</sup> and April 7<sup>th</sup>. For the period  
21     covering April 1<sup>st</sup> through June 30<sup>th</sup>, reports are to be completed and submitted  
22     between July 1<sup>st</sup> and July 7<sup>th</sup>. For the period covering July 1<sup>st</sup> through September  
23     30<sup>th</sup>, reports are to be completed and submitted between October 1<sup>st</sup> and October  
24     7<sup>th</sup>. For the period covering October 1<sup>st</sup> through December 31<sup>st</sup>, reports are to be  
25     completed and submitted between January 1<sup>st</sup> and January 7<sup>th</sup>."

26                  **"Failure to submit complete and timely reports shall constitute**  
27     **a violation of probation."** (Emphasis added.)

28                  20.     Respondent's probation is subject to revocation because he failed to

1 comply with Probation Term and Condition No. 6, referenced above, as follows:

2           A.     Respondent did not submit his Quarterly Report of  
3           Compliance for the period July 1, 2006 through September 30, 2006, which was  
4           due to the Board by October 7, 2006.

5           B.     Respondent did not submit his Quarterly Report of  
6           Compliance for the period October 1 through December 31, 2006, which was due  
7           to the Board by January 7, 2007.

8           C.     Respondent did not submit his Quarterly Report of  
9           Compliance for the period January 1 through March 31, 2007, which was due to  
10          the Board by April 7, 2007.

#### 11                           **FIFTH CAUSE TO REVOKE PROBATION**

##### 12   **(Probation Monitoring Costs)**

13                   21.     At all times after the effective date of Respondent's probation, Term and  
14          Condition No. 8 stated:

15                            "All costs incurred for probation monitoring during the entire probation  
16                           shall be paid by the Respondent. The monthly cost may be adjusted as expenses are  
17                           reduced or increased. Respondent's failure to comply with all terms and conditions may  
18                           also cause this amount to be increased."

19                            "All payments for costs are to be sent directly to the Respiratory Care  
20                           Board and must be received by the date(s) specified. (Periods of tolling will not toll the  
21                           probation monitoring costs incurred.)"

22                            **"If Respondent is unable to submit costs for any month, he shall be**  
23                            **required instead to submit an explanation of why he is unable to submit the costs,**  
24                            **and the date(s) he will be able to submit the costs including payment amount(s).**

25                            Supporting documentation and evidence of why the Respondent is unable to make such  
26                            payment(s) must accompany this submission."

27                            **"Respondent understands that failure to submit costs timely is a**  
28                            **violation of probation, and submission of evidence demonstrating financial hardship**

1 does not preclude the Board from pursuing further disciplinary action. However,  
2 Respondent understands providing evidence and supporting documentation of financial  
3 hardship may delay further disciplinary action.”

4 “In addition to any other disciplinary action taken by the Board, an  
5 unrestricted license will not be issued at the end of the probationary period and the  
6 respiratory care practitioner license will not be renewed, until such time all probation  
7 monitoring costs have been paid.”

8 “The filing of bankruptcy by Respondent shall not relieve the Respondent  
9 of his responsibility to reimburse the Board for costs incurred.” (Emphases added.)

10 22. Respondent’s probation is subject to revocation because he failed to  
11 comply with Probation Term and Condition No. 8, referenced above, as follows:

12 A. Respondent has not paid his probation monitoring costs in  
13 the amount of \$800.00 for October, November and December 2006, and January,  
14 February, March, April and May, 2007.

15 B. Respondent did not submit an explanation for not making  
16 the probation monitoring costs payments for October, November and December  
17 2006, and January, February, March, April and May, 2007.

## 18 **SIXTH CAUSE TO REVOKE PROBATION**

### 19 **(Notice to Employer)**

20 23. At all times after the effective date of Respondent’s probation, Condition  
21 10 stated:

22 “Respondent shall be required to inform his employer, and each  
23 subsequent employer during the probation period, of the discipline imposed by this  
24 decision by providing his supervisor and director and all subsequent supervisors and  
25 directors with a copy of the decision and order, and the Statement(s) of Issues or  
26 Accusation(s) in this matter prior to the beginning of or returning to employment or  
27 within 14 days from each change in a supervisor or director.”

28 “If Respondent is employed by or through a registry [and is not restricted



1 from working for a registry], Respondent shall make each hospital or establishment to  
2 which he is sent aware of the discipline imposed by this decision by providing his direct  
3 supervisor and administrator at each hospital or establishment with a copy of this  
4 decision, and the Statement(s) of Issues in this matter prior to the beginning of  
5 employment. This must be done each time there is a change in supervisors or  
6 administrators.”

7 “The employer will then inform the Board, in writing, that he is  
8 aware of the discipline, on forms to be provided to the Respondent. Respondent  
9 is responsible for contacting the Board to obtain additional forms, if needed. All  
10 reports completed by the employer must be submitted from the employer directly  
11 to the Board.”

12 “Respondent shall execute a release authorizing the Board or any of its  
13 representatives to review and obtain copies of all employment records and discuss and  
14 inquire of the probationary status with any of Respondent’s supervisors or directors.”

15 24. Respondent’s probation is subject to revocation because he failed to  
16 comply with Probation Condition No. 10, referenced above, as follows:

17 A. In a letter dated March 9, 2007, the administrator of French  
18 Park Care Center informed the Board’s probation monitor that Respondent did not  
19 disclose his probationary status at the time he was hired, or provide any  
20 documentation relating to his probation. On March 9, 2007, the Board received  
21 an Employer Acknowledgment form from the administrator of French Park Care  
22 Center in which she indicated that Respondent had not provided a copy of the  
23 Decision and Order, and the Statement of Issues.

24 **CAUSE FOR DISCIPLINE**

25 **(Commission of a Fraudulent, Dishonest, or Corrupt Act)**

26 25. Respondent is subject to disciplinary action under section 3750,  
27 subdivision (j), of the Code in that he committed a fraudulent, dishonest or corrupt act  
28 substantially related to the qualifications, functions, or duties of a respiratory care practitioner, as



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